

Message Text

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ACTION L-03

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O R 271434Z SEP 76

FM AMEMBASSY LONDON

TO SECSTATE WASHDC IMMEDIATE 5922

INFO AMEMBASSY PRETORIA

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SUBJECT: NAMIBIAN FUR SEALS

REF: (A) STATE 215734; (B) PRETORIA 4214; (C) LONDON
4214 (D) LONDON 15257

TEXT OF UK RESPONSE TO QUESTIONS RAISED REFTEL (A)
FOLLOWS. DEPARTMENT SHOULD NOTE ADMONITION
CONTAINED LAST PARA OF SUBSTANTIVE TEXT THAT FCO WISHES
THAT SOURCE OF THIS INFORMATION BE TREATED AS CONFIDEN-
TIAL.

COMPLIMENTARY INTRODUCTION.

BEGIN TEXT. THE RESEARCH INTO THE TERRITORIAL STATUS OF
THESE ISLANDS DONE BY THE FOREIGN AND COMMONWEALTH OFFICE
CONFIRMS THE CONCLUSION REACHED IN THE FIRST SENTENCE OF
PAGE FOUR OF THE EMBASSY'S NOTE, VIZ THAT THE PENGUIN
ISLANDS, INCLUDING THE ISLANDS MENTIONED IN PARAGRAPH 1
OF PAGE 1 OF THE EMBASSY'S NOTE, WERE NEVER PART OF THE
GERMAN PROTECTORATE OF SOUTH WEST AFRICA AND THUS WERE
NOT INCLUDED IN THE MANDATED TERRITORY OF SOUTH WEST
AFRICA CREATED IN 1920. THEY ARE, ACCORDINGLY, AT THE
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PRESENT TIME, PART OF THE TERRITORY OF THE UNION OF

SOUTH AFRICA.

FROM A STUDY OF THE RELEVANT FOREIGN OFFICE AND COMMONWEALTH OFFICE PRINTS OF THE 1880S IT IS CLEAR THAT THERE WERE TWO SEPARATE GROUPS OF ISLANDS OFF THE SOUTH WEST AFRICAN COAST WHICH WERE THE SUBJECT OF NEGOTIATIONS BETWEEN THE UNITED KINGDOM AND GERMANY IN 1884/86. THE FIRST GROUP WAS THE PENGUIN ISLANDS (INCLUDING ICHABOE ISLAND WHICH WAS FIRST CLAIMED FOR THE BRITISH CROWN IN 186L.) THESE ISLANDS WERE FORMALLY ANNEXED TO THE UNITED KINGDOM BY LETTERS PATENT OF 1867. THE SECOND GROUP WAS THE UNNAMED ISLETS AND ROCKS ADJACENT TO THE SOUTH WEST AFRICA PROTECTORATE COAST, WHICH HAD NOT BEEN SPECIFICALLY NAMED IN THE LETTERS PATENT OF 1867. THE "UNNAMED" ISLANDS FEATURED IN ARTICLE 4 OF THE 15 JULY 1886 PROTOCOL AGREED BY BRITISH AND GERMAN COMMISSIONERS IN BERLIN WHICH WAS SUBSEQUENTLY APPROVED BY THE UNITED KINGDOM AND GERMAN GOVERNMENTS. AS A RESULT THE "UNNAMED ISLETS AND ROCKS" WERE ACKNOWLEDGED BY BOTH PARTIES TO THE 1886 PROTOCOL TO BE UNDER GERMAN SOVEREIGNTY. THE PENGUIN ISLANDS (I.E. THE TWELVE ISLANDS OF ICHABOE, HOLLANDBIRD (OR HOLLAMSBIRD), MERCURY, LONG ISLAND, SEAL ISLAND, PENGUIN ISLAND, HALIFAX, POSSESSION ISLAND, ALBATROSS ROCK, POMONA, PLUM PUDDING AND ROAST BEEF (OR SINCLAIR) ISLAND) WERE NOT UNDER DISPUTE. THE 1886 PROTOCOL WAS THEREFORE NOT CONCERNED WITH THEM. BY EARLY 1885 GERMANY HAD COME TO ACCEPT BRITISH SOVEREIGNTY OVER THEM, THOUGH THE IMPERIAL GERMAN GOVERNMENT STILL HOPED THAT IN FURTHER NEGOTIATIONS SOME NEW ARRANGEMENT MIGHT BE REACHED. IN FACT IT NEVER WAS.

THE EMBASSY'S NOTE REFERS TO AMBIGUITIES IN THE PUBLISHED HISTORICAL RECORD. ONE SOURCE OF CONFUSION WHICH HAS BEEN REVEALED BY THE RESEARCH DONE IN THE FOREIGN AND COMMONWEALTH OFFICE IS A SURPRISING ERROR IN HERTSLET'S MAP OF AFRICA BY TREATY (1909 EDITION VOLUME I PAGE 160 AND VOLUME III PAGE 878). HERTSLET APPEARS TO HAVE WRONGLY INTERPRETED THE "UNNAMED ISLETS AND ROCKS" IN ARTICLE 4 OF THE 1886 PROTOCOL AS REFERRING TO THE PENGUIN ISLANDS. HIS REFERENCE TO SHARK ISLAND IS, HOWEVER, CORRECT.

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IN RESPONSE TO THE EMBASSY'S REQUEST FOR ANY FURTHER INFORMATION ON THIS QUESTION AVAILABLE TO HER MAJESTY'S GOVERNMENT, PARTICULARLY WITH REFERENCE TO THE NEGOTIATIONS OF COMMISSIONERS BIEBER AND SHEPARD IN CAPE TOWN BETWEEN 1884 AND 1886, COPIES OF THE FOLLOWING BAPERS ARE ATTACHED:

A) EXTRACTS FROM COMMONWEALTH OFFICE PRINTS (AFRICAN

NOS. 306 AND 306A OF 1886) ON THE INCONCLUSIVE 1885
JOINT ANGRA PEQUENA COMMISSION, WHICH PROVIDE HISTORICAL
BACKGROUND ON THE ANNEXATION OF THE PENGUIN ISLANDS AND

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THE LEASES GRANTED IN 1869 ON ADJACENT UNNAMED ISLANDS BY
THE THEN CAPE COLONIAL GOVERNOR. IT WAS SOVEREIGNTY OVER
THE LATTER WHICH WAS DISPUTED BY THE GERMANS.

B) A MEMORANDUM FROM HER MAJESTY'S GOVERNMENT TO THE
GERMAN GOVERNMENT SETTING OUT THE BRITISH POSITION VIS-A-
VIS THE COASTAL ISLANDS (COMMONWEALTH OFFICE PRINT,
AFRICAN NO. 286).

C) EXTRACTS FROM THE REPORT BY THE BRITISH COMMISS-
IONER ON THE INCONCLUSIVE 1885 JOINT COMMISSION (COMMON-
WEALTH OFFICE PRINT, AFRICAN NO. 305).

D) EXTRACTS FROM THE REPORTS OF THE BRITISH AND
GERMAN COMMISSIONERS WHO AGREED THE 1886 PROTOCOL IN
BERLIN (COMMONWEALTH OFFICE PRINT, AFRICAN NO. 305).

IT IS CONSIDERED THAT THE ABOVE PAPERS TEND TO SUPPORT
THE INTERPRETATION OF EVENTS CONTAINED IN THE EMBASSY'S
NOTE, AND IT IS HOPED THAT THIS INFORMATION WILL BE OF

ASSISTANCE.

WITH REFERENCE TO THE SECOND PARAGRAPH OF PAGE 4 OF THE
EMBASSY'S NOTE, HER MAJESTY'S GOVERNMENT WOULD REQUEST
THAT THE SOURCE OF THIS INFORMATION BE HELD IN CONFID-
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ENCE. END OF TEXT.

COMPLIMENTARY CLOSE.

COPY OF NOTE AND ATTACHMENTS FOLLOW BY AIR POUCH.

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